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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,914	01/29/2004	Setsu Komiyama	040031	2644

23850 7590 01/13/2005

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WASHINGTON, DC 20006

EXAMINER

GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/765,914

Applicant(s)

KOMIYAMA ET AL.

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 3.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date: 8-21-04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claim 1 (claim 2, dependent), line 4 recites, "... attenuating and increasing ...", which implicates the filter being able to attenuate and increase an audio signal at the same time, wherein it is accurate that a filter can perform both functions, and however, the performance of the filter is not acquired as one in the same performance of a signal. Commonly, a filter is described as being able to attenuate or increase a signal. Thus, the claim language of line 4 is unclear and indefinite.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's admitted prior art (AAPA) in view of Oinoue et al., U. S. Patent 20020031231.

Regarding claim 1, AAPA discloses a mixing comprising an equalizer (3), a fader (4), and pan circuit (6). However, AAPA fails to specifically disclose a distance filter.

Regarding a distance filter, Oinoue et al. (herein, Oinoue) discloses an acoustic apparatus comprising a variable attenuator coupled to a LPF, wherein the variable attenuator attenuates the input audio signal, which reads on attenuating an audio signal in an entire audio-frequency band; and the LPF (low pass filter) reads on extracting a high-audio frequency component from the input audio signal level, in a correlated manner – figure 1, references 22/26, and 23/27 – (paragraph 0031-0032 and 0036-0037), and the coupling of the variable attenuator and the LPF reads a distance filter.

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of AAPA by implementing a variable attenuator coupled to a LPF for the purpose of enabling a listener to perceive or recognize a sound at a particular location than where the loudspeaker may actually be located to enjoy the acoustic effects of surround or virtual sound.

Regarding claim 2, AAPA and Oinoue disclose everything claimed as applied above (see claim 1). AAPA further discloses the variable attenuator coupled to each other (cascaded) with the variable attenuator attenuating to a predetermined level, which is operable for change, and a LPF in which the cutoff frequency may be from 2 to 6 kHz, which reads on a the distance filter, therein (figure 1); and further the amount of attenuation by the variable attenuator and the cutoff-frequency is lower when the amount of attenuation is larger, wherein the right channel signal has a gain higher for the high frequency band than that of the low frequency band, which results to a increase in attenuation (paragraph 0034).

***Prior Art***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Dolby, U. S. Patent No. 4701722, discloses a circuit arrangement for modifying dynamic range using a series and parallel circuit techniques.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Laura A. Grier  
January 8, 2004